

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

OHIO VALLEY ENVIRONMENTAL
COALITION, WEST VIRGINIA
HIGHLANDS CONSERVANCY and
SIERRA CLUB,

Plaintiffs,

v.

CIVIL ACTION NO. 2:13-21588
(Consolidated with 2:13-16044)

FOLA COAL COMPANY, LLC,

Defendant.

AFFIDAVIT OF SPECIAL MASTER JAMES KYLES

THE AFFIANT, having been sworn states as follows:

1. I am James Kyles, and am employed by O'Brien & Gere as Senior Vice President. I have been selected by the United States District Court, Southern District of West Virginia to serve as the Court's Special Master in the above-captioned action. In particular, I will support the Court with oversight of data collection; implementing the project; the technologies being utilized; and the schedule for design, construction, and operation of the water management strategies as described in the accompanying Order Specifying Relief.

2. Pursuant to Federal Rule of Civil Procedure 53, in particular sub-sections (a)(2) and (b)(3)(A), this affidavit is being filed to disclose any potential grounds for my disqualification as Special Master under 28 U.S.C. § 455. Under this statute:

(a) Any [master] shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the [master] or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

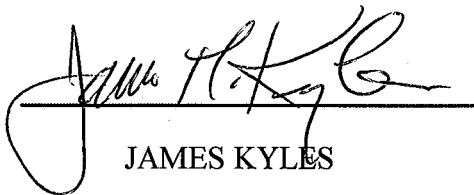
(iii) Is known by the [master] to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) Is to the [master]'s knowledge likely to be a material witness in the proceeding.

(c) A [master] should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

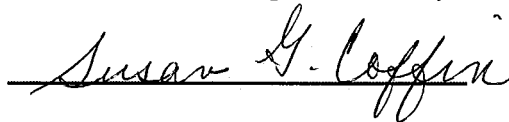
3. I hereby swear that I have no relationship or interest in this matter as described above that would be grounds for disqualification.

FURTHER AFFIANT SAITH NAUGHT:


JAMES KYLES

TAKEN, SUBSCRIBED and SWORN to before the undersigned authority this

1st day of June 2016, by James Kyles.



My commission expires 11/5/2018

NOTARY PUBLIC

SUSAN G. COFFIN
Notary Public in the State of New York
Qualified in Onondaga County No. 4974060
My Commission Expires November 5, 2018